



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-0802/1  
ZDW:wlj

## 2023 ASSEMBLY BILL 14

February 7, 2023 - Introduced by Representatives TITTL, PRONSCHINSKE, EDMING, MURPHY, MURSAU, ROZAR, TUSLER and WICHGERS, cosponsored by Senator JACQUE. Referred to Committee on Consumer Protection.

1     **AN ACT** *to create* subchapter XI of chapter 218 [precedes 218.60] of the statutes;  
2             **relating to:** repair and replacement of implements of husbandry under  
3             warranty.

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### *Analysis by the Legislative Reference Bureau*

This bill creates requirements, commonly known as a “lemon law,” for the repair and replacement of an implement of husbandry that has a condition or defect (nonconformity) that substantially impairs the use, value, or safety of the implement of husbandry and that is covered by an express warranty.

Under the bill, if an implement of husbandry does not conform to an applicable express warranty, and the consumer reports the nonconformity to the manufacturer, the lessor, or any of the manufacturer’s authorized dealers and makes the implement of husbandry available for repair, the manufacturer, lessor, or authorized dealer must repair the nonconformity. If the same nonconformity has been subject to repair at least four times and the nonconformity continues, or if the implement of husbandry is out of service for an aggregate of at least 30 days because of warranty nonconformities, the consumer is entitled to a replacement implement of husbandry or a full refund.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

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## SECTION 1

1           **SECTION 1.** Subchapter XI of chapter 218 [precedes 218.60] of the statutes is  
2 created to read:

3   **CHAPTER 218**

4   SUBCHAPTER XI

5   IMPLEMENTS OF HUSBANDRY

6           **218.60 Repair and replacement of implements of husbandry under**  
7 **warranty.** (1) In this section:

8           (a) "Collateral costs" means expenses incurred by a consumer in connection  
9 with the repair of a nonconformity, including the costs of obtaining an alternative  
10 implement of husbandry.

11           (b) "Consumer" means any of the following:

12           1. The purchaser of a new implement of husbandry if the implement of  
13 husbandry was purchased from an authorized dealer for purposes other than resale.

14           2. A person to whom an implement of husbandry is transferred for purposes  
15 other than resale if the transfer occurs before the expiration of an express warranty  
16 applicable to the implement of husbandry that was extended when the implement  
17 of husbandry was new and first sold by an authorized dealer for purposes other than  
18 resale.

19           3. A person who may enforce an express warranty applicable to an implement  
20 of husbandry that was extended when the implement of husbandry was new and first  
21 sold by an authorized dealer for purposes other than resale.

22           4. A person who leases a new implement of husbandry from a lessor under a  
23 written lease.

24           (c) "Implement of husbandry" has the meaning given in s. 340.01 (24).

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1 (d) “Nonconformity” means a condition or defect that substantially impairs the  
2 use, value, or safety of an implement of husbandry and that is covered by an express  
3 warranty applicable to the implement of husbandry or to a component of the  
4 implement of husbandry. “Nonconformity” does not include a condition or defect that  
5 is the result of abuse, neglect, or unauthorized modification or alteration of the  
6 implement of husbandry by a consumer.

7 (e) “Out of service” means that the implement of husbandry is unable to be used  
8 by the consumer either because of a nonconformity for which one or more  
9 unsuccessful attempts to repair have been made and the implement of husbandry  
10 has been returned to the consumer or remains with the consumer awaiting further  
11 repair attempts or because the implement of husbandry is in the possession of the  
12 manufacturer, lessor, or any of the manufacturer’s authorized dealers for the  
13 purpose of performing repairs to correct a nonconformity.

14 (f) “Unsuccessful attempt to repair” means a repair attempt that does not  
15 correct the nonconformity for which the repair work is conducted and for which active  
16 repair work on the nonconformity stops and does not begin again within 24 hours of  
17 the previous repair work.

18 **(2)** If an implement of husbandry does not conform to an applicable express  
19 warranty, and the consumer reports the nonconformity to the manufacturer, the  
20 lessor, or any of the manufacturer’s authorized dealers and makes the implement of  
21 husbandry available for repair before the expiration of the warranty or one year after  
22 first delivery of the implement of husbandry to a consumer, whichever is sooner, the  
23 manufacturer, lessor, or authorized dealer shall repair the nonconformity.

24 **(3)** If a manufacturer, lessor, or authorized dealer attempts to repair a  
25 nonconformity not fewer than 4 times and the nonconformity is not repaired, or if an

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1 implement of husbandry is out of service for an aggregate of not less than 30 days,  
2 the consumer is entitled to a replacement or refund, and the manufacturer shall do  
3 one of the following as directed by the consumer:

4 (a) Accept return of the implement of husbandry and replace the implement of  
5 husbandry with a comparable new implement of husbandry and refund any  
6 collateral costs.

7 (b) Accept return of the implement of husbandry and refund to the consumer  
8 and to any holder of a perfected security interest in the consumer's implement of  
9 husbandry, as their interest may appear, the full purchase price plus any sales tax,  
10 finance charge, amount paid by the consumer at the point of sale, and collateral costs,  
11 less a reasonable allowance for use.

12 (c) If the implement of husbandry is leased, accept return of the implement of  
13 husbandry, refund to the lessor and to any holder of a perfected security interest in  
14 the implement of husbandry, as their interest may appear, the current value of the  
15 written lease, and refund to the consumer the amount the consumer paid under the  
16 written lease plus any sales tax and collateral costs, less a reasonable allowance for  
17 use.

18 (4) A consumer who elects to receive a refund under sub. (3) shall notify the  
19 manufacturer. Not later than 30 days after receiving notice from the consumer, the  
20 manufacturer shall provide the consumer with the refund. Upon receipt of the  
21 refund, the consumer shall return the implement of husbandry having the  
22 nonconformity to the manufacturer.

23 (5) A consumer who elects to receive a comparable new implement of  
24 husbandry under sub. (3) shall notify the manufacturer. Not later than 45 days after  
25 receiving notice from the consumer, the manufacturer shall provide either a

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1 comparable new implement of husbandry or, if a comparable new implement of  
2 husbandry does not exist or cannot be delivered within the 45-day period, a refund.  
3 Upon receipt of the new implement of husbandry or the refund, the consumer shall  
4 return the implement of husbandry having the nonconformity to the manufacturer.

5 (6) A manufacturer, lessor, or manufacturer's authorized dealer may not sell  
6 or lease any nonconforming implement of husbandry returned to the manufacturer  
7 by a consumer unless the manufacturer, lessor, or manufacturer's authorized dealer  
8 discloses the reasons the implement of husbandry was returned to any prospective  
9 buyer or lessee. If a manufacturer fails to disclose in writing at the time of transfer  
10 or sale to a dealer that a nonconforming implement of husbandry was returned to the  
11 manufacturer by a consumer, the manufacturer shall indemnify the dealer for all  
12 costs and expenses the dealer incurs as the result of the manufacturer's failure to  
13 disclose the nonconformity and shall be directly liable under this section to a  
14 consumer who purchases a nonconforming implement of husbandry without having  
15 received the disclosure required under this section.

16 (7) The department of revenue shall refund to a manufacturer any sales tax  
17 the manufacturer refunded to a consumer under sub. (3) if the manufacturer  
18 provides to the department of revenue a written request for a refund along with  
19 evidence that the sales tax was paid when the implement of husbandry was  
20 purchased and that the manufacturer refunded the sales tax to the consumer.

21 (8) This section does not limit rights or remedies available to a consumer under  
22 any other law.

23 (9) (a) In addition to pursuing any other remedy, a consumer may bring an  
24 action to recover for any damages caused by a violation of this section if the action  
25 is commenced within 36 months after first delivery of the implement of husbandry

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1 to a consumer. The court shall award a consumer who prevails in such an action the  
2 amount of any pecuniary loss, together with costs, disbursements, and reasonable  
3 attorney fees, and may award any equitable relief the court determines appropriate.

4 (b) Notwithstanding any other provision of this section or ch. 802, 804, or 806,  
5 in an action for a violation under this section, if a court finds that any party to the  
6 action has failed to reasonably cooperate with another party's efforts to comply with  
7 obligations under this section, which hinders the other party's ability to comply with  
8 or seek recovery under this section, the court may extend any deadlines specified in  
9 this section, reduce any damages, attorney fees, or costs that may be awarded under  
10 par. (a), strike pleadings, or enter default judgment against the offending party.

11 (END)